

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY OF  
MASSACHUSETTS,

Plaintiff,

v.

JOSEPH D. GIAMPA, FREDERICK T.  
GIAMPA, ADVANCED SPINE CENTERS, INC.  
d/b/a FIRST SPINE REHAB, FUTURE  
MANAGEMENT CORPORATION, FUTURE  
MANAGEMENT BUSINESS TRUST, EDWARD  
KENNEDY, BRIAN J. CULLINEY, D.C. and  
JENNIFER MCCONNELL, D.C.,

Defendants.

Case No. 05-11693 RCL

**DEFENDANTS BRIAN J. CULLINEY, D.C.  
AND JENNIFER MCCONNELL, D.C.'S MOTION TO DISMISS**

Defendants Brian J. Culliney, D.C. ("Culliney") and Jennifer McConnell, D.C. ("McConnell") respectfully move that this Honorable Court dismiss as against them all counts of Plaintiff's Complaint for Monetary Damages and Injunctive Relief (the "Complaint") as follows:

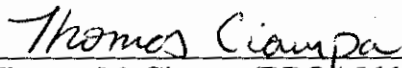
1. Counts IV (G.L. c. 93A), V (Civil Conspiracy), and VI (Fraud) of the Complaint for failure to satisfy the pleading requirements of Federal Rule of Civil Procedure 12(b)(6) and 9(b); and
2. Count VII (Intentional Interference with Business and Contractual Relationships) of the Complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rules of Civil Procedure 12(b)(6) and 8(a).

In support of their Motion, Culliney and McConnell rely upon their accompanying Memorandum of Law and incorporate by reference any additional relevant arguments advanced by the remaining defendants in their Motion to Dismiss Plaintiff's Complaint Pursuant to Fed.R.Civ.P. 12(b)(6).

Respectfully submitted,

BRIAN J. CULLINEY, D.C. and  
JENNIFER MCCONNELL, D.C.

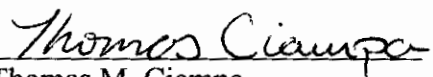
By their attorney,

  
Thomas M. Ciampa (BBO# 566898)  
Ciampa & Associates  
45 Bromfield Street, Suite 200  
Boston, MA 02108  
(617) 742-5955

Dated: September 6, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of September, 2005, a copy of the foregoing Defendants Brian J. Culliney, D.C. and Jennifer McConnell, D.C.'s Motion to Dismiss was served by first-class mail, postage prepaid, upon counsel of record for all other parties.

  
Thomas M. Ciampa